

1
2
3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 * * *

7 UNITED STATES OF AMERICA,

8 Plaintiff(s),

9 v.

10 BENJAMIN COTTMAN and
11 MELVIN BROWN,

12 Defendant(s).

Case No. 2:18-CR-129 JCM (DJA)

ORDER

13
14 Presently before the court is the matter of *United States v. Cottman*, case no. 2:18-cr-
15 00129-JCM-DJA-1.

16 Defendant Benjamin Cottman has filed a motion to withdraw his guilty plea. (ECF No.
17 106). The government filed a response (ECF No. 110), but Cottman has not filed a reply, and the
18 time for doing so has passed.

19 On April 18, 2019, the court received a signed binding plea agreement (ECF No. 72),
20 from which Cottman now seeks to withdraw from (ECF No. 106). Cottman relies on Federal
21 Rule of Criminal Procedure 11(d)(1), which provides that a defendant may withdraw a plea of
22 guilty “before the court accepts the plea, for any reason or no reason.” Fed. R. Crim. P. 11(d)(1).
23 In its response, the government states that it does not have a legal basis to challenge Cottman’s
24 motion, and thus has no objection to it being granted. (ECF No. 110).


25 Because a plea of guilty may be freely withdrawn before it is accepted by the court, the
26 court will grant Cottman’s motion to withdraw his guilty plea.

1 The court further holds that the additional delay occasioned by this order is excludable in
2 computing the time within which the trial must commence under the Speedy Trial Act, 18 U.S.C.
3 § 3161(h)(1)(D).

4 Accordingly,

5 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Cottman's motion to
6 withdraw his guilty plea (ECF No. 106) be, and the same hereby is, GRANTED. The court will
7 vacate the plea hearing presently set for October 8, 2019, at 10:00 a.m. (ECF No. 108).

8 DATED September 16, 2019.

9 
10 _____
11 UNITED STATES DISTRICT JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28